

# Supreme Court of Texas

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No. 24-0170

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In re CG Searcy, LLC,

*Relator*

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On Petition for Writ of Mandamus

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## PER CURIAM

Relator seeks mandamus relief from temporary orders in a divorce proceeding giving the real party in interest exclusive use and possession of a tax refund. The court of appeals denied relator’s mandamus petition on both procedural and merits grounds. \_\_\_ S.W.3d \_\_\_, 2024 WL 861385, at \*1 (Tex. App.—Dallas Feb. 29, 2024). As to the procedural ground, the court of appeals construed Texas Rule of Appellate Procedure 52.7 to require the mandamus record to include all exhibits offered in relevant hearings, regardless of whether those exhibits are either relevant or material in determining whether the trial court abused its discretion. *Id.* This was error. Rule 52.7 requires a relator to file (1) “document[s] . . . *material* to the relator’s claim for relief” and (2) “a properly authenticated transcript of any *relevant* testimony from any underlying proceeding, *including any exhibits offered in evidence.*” TEX. R. APP. P. 52.7(a) (emphases added). Because

the prepositional phrase “including any exhibits offered in evidence” modifies “transcript of any relevant testimony,” an exhibit that is not relevant or material to the original proceeding need not be included in the mandamus record. Nevertheless, we agree with the court of appeals that relator failed to demonstrate entitlement to mandamus relief on the merits. We deny the mandamus petition and motion for temporary relief.

**OPINION DELIVERED:** March 29, 2024